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Group I, comprising claims 1-7, drawn to an endoscope with waveguides, classified in class 385, subclass 117.

Group II, comprising claims 8-10, drawn to a polygon mirror, classified in class 359, subclass 216.

Group III, comprising claims 11-13, drawn to an optical scanning system, classified in class 359, subclass 198.

The Examiner asserted that the inventions are distinct and are thus proper for restriction under 35 U.S.C. § 121.

Regarding the three groups, the Examiner first asserted that inventions I and III are unrelated. The Examiner further asserted that inventions I and II are related as combination/subcombination and that inventions III and II are related as combination/subcombination.

Accordingly, the Examiner required restriction.

As noted above, Applicant has, by the present Response, elected Group I comprising claims 1-7 for examination on the merits with traverse for the reasons as are set forth below.

Initially, Applicant wishes to address the Examiner's assertion that inventions I and III are unrelated. Applicant submits that this is incorrect. Applicant notes that claim 11 (Group III) recites a polygon mirror, a supporting mechanism and an incident optical system. Similarly, claim 1 (Group I) recites, inter alia, a polygonal mirror, a supporting mechanism

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and an incident optical system. Moreover, the emission optical member recited in claim 12 of Group III is also recited in claim 1 of Group I. It is thus clear on its face that the Examiner's characterization of inventions I and III as being unrelated is incorrect. For this reason alone, it is respectfully submitted that the Examiner's Restriction Requirement is inappropriate and should be withdrawn.

Furthermore, the Examiner's characterization of the relationship between the inventions of Groups I and II and the relationship between the inventions of Groups III and II are also submitted to be inaccurate. In this regard, Applicant notes that claim 8, the independent claim in Group II, recites a polygon mirror, which is also recited in claim 1 as well as in claim 11. Moreover, the combination of Groups III and I respectively, require the details of the subcombination with respect to the polygon mirror, contrary to the Examiner's assertion. The tilt angles of claims 9 and 10 are not noted to be recited in claim 8. Accordingly, the scope of the recitation of the polygon mirror in claim 1 and in claim 11 is substantially commensurate with the scope of recitation of the polygon mirror in claim 8.

Accordingly, the basis for the Examiner's conclusion regarding the combination and subcombinations recited in the inventive groups I and II and III and II is an inappropriate basis for requiring restriction. For each of these reasons, it is respectfully requested that the Examiner reconsider the restriction requirement and issue an action on the merits of all of claims 1-13 pending herein.

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Moreover, it is respectfully submitted that the searches for each of the groups identified by the Examiner would contain a significant and substantial amount of overlap. Accordingly, there would also not be a serious burden on the Examiner in examining all of these claims together.

Additionally, even if the Examiner's characterization of the various inventions and reasons for distinctions were to be considered correct, Applicant nevertheless respectfully requests that all of the inventions defined by claims 1-13 be examined in the instant application pursuant to the guidelines set forth in MPEP § 803. In particular, the Examiner is respectfully requested to reconsider the requirement and find that there would not appear to be a serious burden on the part of the U.S. Patent and Trademark Office in examining the claims directed to the non-elected invention since the search for the elected invention and the search for the non-elected invention will by necessity have a significant amount of overlap. In particular, were the Examiner to perform a search for the elected invention, it would not appear to be a serious burden in continuing the search during the examination of the other inventions of Groups II and III, particularly because of the inter-relationship of the recitations of these claims as set forth above.

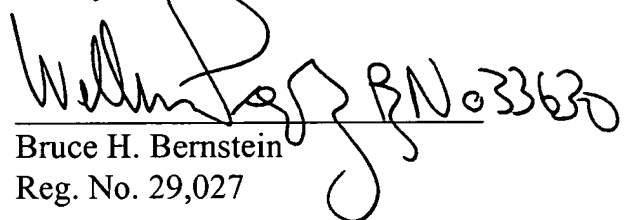
For this reason and consistent with the Office Policy as set forth in MPEP § 803, Applicant respectfully requests that the Examiner reconsider and withdraw the restriction requirement set forth in the outstanding Official Action.

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While Applicant has set forth sufficient and adequate reasons conclusively showing that the Restriction Requirement set forth by the Examiner is inappropriate and has provided persuasive reasons for its withdrawal, in the event that the Examiner nevertheless chooses not to withdraw the Restriction Requirement, Applicant has elected with traverse the invention categorized by the Examiner as Group I and comprising claims 1-7, with traverse.

Should the Examiner have any questions or comments regarding the present Response, or this application, the Examiner is respectfully requested to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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